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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,556	10/31/2001	Thomas J. Westbrook	WWWN116621	7679

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EXAMINER

GART, MATTHEW S

ART UNIT PAPER NUMBER

3625

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

<b>Application No.</b> 10/001,556	<b>Applicant(s)</b> WESTBROOK ET AL.	
<b>Examiner</b> Matthew s Gart	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 08 June 2004.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-67 is/are pending in the application.  
4a) Of the above claim(s) 58-67 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-57 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 31 October 2001 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \*   c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Election/Restrictions*

Claims 58-67 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 8, 2004.

### *Claim Objections*

Claim(s) 30 and 31 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form. These claims are directed to computer-readable mediums having computer-executable instructions for performing the steps of claim 1. These claims are improper because they fail the "infringement test" (see MPEP 608.01(n), Section III). Applying the Infringement test, what is needed to infringe claims 30 and 31 is, for example a CD-ROM having computer executable code that if and when executed would cause a computer to do the steps

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recited in claims 30 and 31. However, such a CD-ROM would not infringe the method steps of claim 1 since the CD-ROM itself never performs any of the active steps required by the method of claim 1. In other words, mere possession of such a CD-ROM would infringe claims 30 and 31, but would not infringe claim 1. As such claims 30 and 31 are improper dependent claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-57 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Adam Patent Publication No. 2002/0069156.**

Referring to claim 1. Adam discloses a method for facilitating transactions between one or more buyers and sellers, the method comprising:

- Obtaining a buyer transaction request, the transaction request including one or more buyer criteria (paragraph 0078);
- Identifying a set of sellers corresponding to the at least one buyer criteria;
- Transmitting the set of sellers corresponding to the buyer criteria (paragraph 0078 through paragraph 0082);

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- Obtaining a selection of at least one seller corresponding to the buyer criteria (paragraph 0078 through paragraph 0082);
- Processing the negotiation of a transaction between the buyer and the selected seller corresponding to the buyer criteria (paragraph 0078 through paragraph 0082);
- Obtaining a confirmation of the completion of a transaction between the buyer and the selected seller (paragraph 0008 and paragraph 0068); and
- Generating transaction records associated with the completed transaction (paragraph 0073).

Referring to claim 2. Adam further discloses a method wherein obtaining the buyer transaction request includes obtaining a buyer transaction inquiry from a buyer computing device, wherein the buyer transaction inquiry includes a request to identify sellers operable to sell a buyer specified product and quantity (abstract).

Referring to claim 3. Adam further discloses a method wherein identifying a set of sellers corresponding to the buyer criteria includes:

- Obtaining product and quantity correlation data (Figure 4, Figure 5 and Figure 6);  
and
- Translating the buyer specified product and quantity data into a format compatible with each identified seller corresponding to the buyer criteria (Figure 4, Figure 5 and Figure 6).

Referring to claim 4. Adam further discloses a method wherein identifying a set of seller corresponding to the buyer criteria includes applying selection criteria (paragraph 0078 through paragraph 0082).

Referring to claim 5. Adam further discloses a method wherein the selection criterion includes information selecting one or more general seller categories to include/exclude (paragraph 0078).

Referring to claim 6. Adam further discloses a method wherein the selection criterion includes information identifying specific sellers to include/exclude (paragraph 0078).

Referring to claim 7. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from the buyer computing device (paragraph 0078).

Referring to claim 8. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from a seller computing device (paragraph 0078).

Referring to claim 9. Adam further discloses a method wherein the selection criterion includes information identifying one or more general seller categories to include/exclude and one or more specific sellers corresponding to the general seller categories to include/exclude (paragraph 0071).

Referring to claim 10. Adam further discloses a method wherein obtaining the buyer transaction request includes obtaining a buyer transaction query from a buyer

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computing device, wherein the buyer transaction query includes an invitation for offers from a number of sellers (abstract).

Referring to claim 11. Adam further discloses a method wherein identifying a set of sellers corresponding to the buyer criteria includes;

- Identifying a set of sellers corresponding to the buyer criteria (Figure 4, Figure 5 and Figure 6);
- Transmitting the transaction query to the set of sellers (Figure 4, Figure 5 and Figure 6); and
- Obtaining one or more seller offers corresponding to the transaction query (Figure 4, Figure 5 and Figure 6).

Referring to claim 12. Adam further discloses a method wherein identifying a set of seller corresponding to the buyer criteria includes applying selection criteria (paragraph 0078 through paragraph 0082).

Referring to claim 13. Adam further discloses a method wherein the selection criterion includes information selecting one or more general seller categories to include/exclude from the transaction query (paragraph 0071 and paragraph 0078).

Referring to claim 14. Adam further discloses a method wherein the selection criterion includes information identifying specific sellers to include/exclude from the transaction query (paragraph 0071 and paragraph 0078).

Referring to claim 15. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from the buyer computing device (paragraph 0071 and paragraph 0078).

Referring to claim 16. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from a seller computing device (paragraph 0071 and paragraph 0078).

Referring to claim 17. Adam further discloses a method wherein the selection criterion includes information identifying one or more general seller categories to include/exclude and one or more specific sellers corresponding to the general seller categories to include/exclude (paragraph 0071 and paragraph 0078).

Referring to claim 18. Adam further discloses a method wherein obtaining a selection of at least one seller corresponding to the buyer criteria includes:

- Generating a Web page interface (paragraph 0044); and
- Obtaining a selection of the at least one seller via the Web page interface (paragraph 0044).

Referring to claim 19. Adam further discloses a method wherein processing the negotiation of a transaction includes:

- Obtaining communications from the buyer (abstract); and
- Transmitting the communications to the selected seller (abstract).

Referring to claim 20. Adam further discloses a method wherein processing the negotiation of a transaction includes:

- Obtaining communications from the selected seller (abstract); and
- Transmitting the communications to the buyer (abstract).

Referring to claim 21. Adam further discloses a method wherein processing the negotiation of a transaction includes obtaining a selection of a direction communication



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method between the buyer and the selected seller; and establishing the direct communication channel between the buyer and the selected seller (paragraph 0025).

Referring to claim 22. Adam further discloses a method wherein the direct communication channel includes an Internet voice communication channel (paragraph 0039).

Referring to claim 23. Adam further discloses a method wherein the direct communication method includes a standard telephonic communication channel (paragraph 0039).

Referring to claim 24. Adam further discloses a method comprising:

- Obtaining a third party transaction request (abstract);
- Identifying one or more third parties corresponding to third party transaction request (abstract);
- Transmitting a set of third parties corresponding to the third party transaction request (abstract);
- Obtaining a selection of at least one third party corresponding to the third party transaction request (abstract);
- Processing the negotiation of a transaction with the selected third party corresponding to the third party transaction request (abstract);
- Obtaining a confirmation of the completion of a transaction with the selected third party corresponding to the third party transaction request (abstract); and
- Generating transaction records associated with the completed transaction (abstract).

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Referring to claims 25 and 26. Adam further discloses a method wherein transaction details are forwarded to a third-party.

The Examiner notes, the descriptive material related to the type of third-party is not functionally involved in the recited steps of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Referring to claim 27. Adam further discloses a method wherein the transaction request is obtained from the buyer (abstract).

Referring to claim 28. Adam further discloses a method wherein the transaction request is obtained from the selected seller (abstract).

Referring to claim 29. Adam further discloses a method wherein the transaction request is a products transaction request.

The Examiner notes, the descriptive material related to the type of product is not functionally involved in the recited steps of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Referring to claim 30. Adam further discloses a computer-readable medium having computer executable instruction for performing the method recited in Claim 1 (abstract).

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Referring to claim 31. Adam further discloses a computer system having a processor, a memory, and an operating environment, the computer system operable to perform the method recited in Claim 1 (abstract).

Referring to claims 32-57. Claims 32-57 are rejected under the same rationale as set forth above in claims 1-29.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cichanowicz, Patent Application Publication Number 2002/0023044 A1, February 21, 2002, discloses an automated method for conducting buy/sell transactions for non-commodity materials or devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew s Gart whose telephone number is 703-305-5355. The examiner can normally be reached on 8:30AM to 5:00PM m-f.

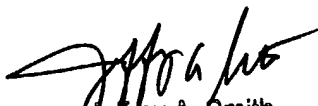
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG

June 20, 2004

  
Jeffrey A. Smith  
Primary Examiner